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COMPETITION COMMITTEE****Working Party No. 2 on Competition and Regulation****Executive Summary of the Roundtable on Taxi, ride-sourcing and ride-sharing services****Annex to the Summary Record on the 65th meeting of Working Party No 2****4 June 2018**

This Executive Summary by the OECD Secretariat contains the key findings from the discussion held during the 65th meeting of Working Party No. 2 on Competition and Regulation on 4 June 2018.

More documents related to this discussion can be found at www.oecd.org/daf/competition/taxis-and-ride-sharing-services.htm

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Executive Summary of the Roundtable on Taxi, ride-sourcing and ride-sharing services

By the Secretariat*

Working Party No. 2 of the OECD Competition Committee held a Roundtable on the subject of *Taxi, ride-sourcing and ride-sharing services* on 4 June 2018. Based on the background paper prepared by the OECD Secretariat, written submissions from delegates, and the contributions by expert panellists and delegates to the discussion, the following key points emerged:

1. In the last decade, disruptive innovation in transportation sector changed the regulatory and competitive landscape dramatically. These innovations have benefited consumers. For regulators, adopting principles rather than detailed rules may be beneficial in facilitating continued innovation in the sector.

Taxi services that provide on-demand personal mobility services are an important part of an urban transport system. In recent years, ride-sourcing and ride-sharing services have entered and quickly expanded their provision of competing services. The platform model has disrupted the traditional taxi and private hire vehicles (PHV) markets and improved services for consumers. Ride-sourcing platforms often charge lower prices to attract new users, and ride-sharing and ride-pooling services offer even lower prices. The additional capacity created by the entry of part-time drivers, more efficient driver-passenger matching algorithms, dynamic pricing models to incentivise a higher supply of drivers during peaks in demand have all helped to increase availability. Meanwhile mobile digital booking and payment applications with global positioning system (GPS) capability have increased convenience by helping passengers to quickly find and meet drivers. Surveys and statistics suggest that passengers often find that the service quality of ride-sharing and ride-sourcing services is better than that of traditional taxis. Application-based services have also offered innovative safety features such as ride information sharing, panic buttons and driver identification.

While many features were introduced by new players, incumbents have often responded, for instance by introducing or signing up to their own digital applications with many of the same features. New entrants also continue to innovate with new features, for instance, offering drivers the ability to set their own price. Enabling both traditional service providers and new entrants to compete with the established platforms is therefore crucial to further improving services for consumers.

The pace of innovation in these markets has also emphasised the importance of focusing on principles rather than the detailed rules when designing regulations. This is because more detailed rules may not be flexible enough to accommodate future innovations and developments. When an issue needs to be addressed in a detailed manner, it may be preferable to do so through temporary regulations that are easy to review and amend.

* This Executive Summary does not necessarily represent the consensus view of the Working Party No 2. It does, however, encapsulate key points from the discussion, the delegates' written submissions, and the panellists' presentations.

2. Taxi and private hire vehicle services are strictly regulated in many countries. Supply constraints are common and are likely to restrict competition. It is unclear whether the original rationale for these constraints ever necessitated such a restriction, however the emergence of ride-sourcing and ride-sharing services has certainly underlined their harmful nature. These regulations may therefore need to be reviewed in light of digitalisation and the arrival of new business models.

In many jurisdictions, the number of taxi licences is restricted and the geographic area in which taxis and PHVs can operate is subject to some limitations. By restricting the number of drivers in a given local area these measures restrict availability for passengers, and also make it difficult for rival platforms to attract a critical mass of drivers across different areas (and hence in turn to attract passengers).

Justifications offered for quantitative supply restrictions include achieving higher productivity per vehicle by avoiding excess supply, maintaining high quality service and securing taxi drivers' welfare. They also included the prevention of congestion and pollution. However new technologies implemented by platforms have increased utilisation rates. Similarly, high consumer satisfaction with ride-sourcing and ride-sharing services in the absence of supply restrictions challenges the service quality argument. It is also unclear that taxi drivers' welfare should be protected through anti-competitive measures when the same approach is not extended to the welfare of workers in other sectors of the economy.

It is certainly true that lower prices and better services have inevitably increased the demand for rides, and to the extent this increase has not entirely been from users who would otherwise drive themselves, this can be expected to have increased congestion in parts of some cities (and hence more accidents). However, the solutions are likely to be found in policies such as congestion charges that directly address the problem, namely the low prices paid by all of those who cause congestion, rather than seeking to restrict capacity amongst taxis and ride-sourcing platforms and hence penalise only those passengers who have most recently started using the roads.

3. While ride-sourcing applications have increased price transparency and used dynamic pricing to improve availability for passengers, traditional taxis services are required to offer fixed prices and are often unable to offer a price estimate. While this restriction may overcome an asymmetric information problem when passengers hail a taxi on the street or from a rank, it restricts the ability of taxi drivers to compete for passengers hailing via an online application. In this context, it might be beneficial to review pricing regulations and consider more flexible schemes.

Taxi tariffs are generally subject to strict and complex pricing regulations. These regulations primarily aim at addressing the information asymmetry between the driver and the passenger and to prevent price gouging. Where passengers hail a taxi in the street or from a rank without knowing the price or the alternatives this protection may still be required. However, where passengers do have access to this information via rival applications, heavily regulated prices can prevent taxis from reacting to the prices of ride-sourcing platforms. They can also prevent taxi platforms from offering the improved availability to users, and the utilisation rates to drivers that ride-sourcing platforms can.

Many agencies criticised fixed or regulated tariffs as anti-competitive restrictions. While some of them argue for total liberalisation of tariffs with free entry to the market, others recommended some kind of less strict price regulation such as maximum price regulation. In this context, reviewing strict pricing regulations might be beneficial for both passengers and drivers. More flexible tariffs with a regulated cap might give flexibility to the taxi

service providers to respond to rival's pricing. Alternatively, different regulations for different types of passenger hires may be justified. This way, consumer welfare can be improved while continuing to protect consumers when they are in more vulnerable situations.

4. Taxis and PHVs are often obliged to comply with various service and safety requirements. However unduly high service quality requirements can serve as an entry barrier and increase costs of providing services to consumers who may knowingly choose lower quality better value services (without imposing externalities on others). The risk posed by such barriers is heightened by the wider variety of services offered by the new business models. While some requirements are excessively restrictive, the rationale for insurance and some safety requirements appears to remain a strong one. Notably competition has complemented safety regulations by incentivising the development of new safety features. Accessibility can be achieved by applying the same rules to new entrant, rather than restricting the growth of new entrants.

Taxis and PHVs face various service and safety requirements. When there is sufficient transparency, setting minimum service quality standards at high levels may work against consumers by hindering service differentiation, creating entry barriers and increasing costs. Moreover some of these restrictions may no longer be necessary given the additional transparency created by digital booking processes and reputation mechanisms makes the need for some quality regulations questionable (e.g. accessories of vehicle). Similarly, geographical knowledge requirements for drivers might now be obsolete given the wide usage of digital mapping services.

However, technology and increased competition do not appear to have changed the case for regulators to require drivers to obtain necessary and proportionate insurance. Indeed such a requirement is important in maintaining a level playing field for traditional taxi drivers. Additionally, the rationale for safety obligations does not seem to have weakened by digitalisation. Indeed, agencies generally accept safety as a valid justification for regulation. In fact, novel safety features of ride-sourcing platforms might even be used to improve current taxi regulations (e.g. there may be a case for some form of panic button to be required as standard).

Another service requirement that remains important is accessibility regulations (e.g. disabled access). Ensuring the provision of accessible services despite these potentially being less profitable than more basic services is a perfectly legitimate policy goal. However this should not mean applying unnecessary restrictions on entry into other services. For instance if the state wants to subsidise or sponsor entry of more accessible providers those subsidies should be available to all that meet those requirements. It is also not clear why these should be funded by levies on particular service users (e.g. ride-sourcing users as opposed to drivers more generally or the population as a whole).

5. There have been few merger or competition law cases regarding ride-sourcing and ride-sharing services. However, as the new entrants become powerful established players, this may change and may present some interesting and challenging issues for competition authorities. For example, novel business models, the multi-sided nature of the market, and issues related to big data may pose potential challenges to competition authorities when investigating allegations of collusion, exclusion, excessive pricing and anti-competitive price discrimination claims.

There has been limited merger or enforcement activity with regard to ride-sourcing services. Most of that which has been seen has involved mergers and acquisitions. However, this may change and may present some interesting and challenging potential issues for competition authorities.

Firstly, new players in the ride-sourcing sector are often multi-sided platforms which match two groups of customers, namely drivers and passengers. Similar to other multi-sided markets, this market is also characterized by economies of scale and cross-platform network externalities which can mean that firms need to attain a critical mass of users in order to compete. On the one hand this increases the likelihood of market concentration, which might be exacerbated by merger. The contestability of these positions might also be limited by the same cross-platform network effects. In this scenario, both switching and multi-homing by both drivers and passengers can be an important factor in enabling rivals to enter and build their own networks. As a result, agencies may need to pay particular attention to conduct that limits multi-homing or switching, such as exclusivity inducing practices or limitations on drivers transferring their rating to a different platform. On the other hand, agencies are unlikely to need to look at allegations of predatory pricing since, it is common for multi-sided markets to price below cost to one-side of the market for pro-competitive reasons, both as an entry strategy and as a long-term strategy.

Secondly, centralised pricing of some platforms may raise questions of collusive behaviour since it can involve the platform agreeing with a driver to set their price relative to the price of other drivers on the platform. If platforms with decentralised price-setting were to prove as viable a business model as they have been in other markets, then it might be considered that these drivers might otherwise have competed on price with each other. Assessment regarding the lawfulness of such conduct depends on a variety of factors. These include the national competition law provisions; the actual role that is played by the platform; and the status of the drivers vis-à-vis the platform. They also include whether the agreement is necessary to deliver efficiencies (as was considered in the case of WebTaxi in Luxembourg, which was found to be an anticompetitive horizontal price-fixing agreement, but one that was exempted on efficiency grounds) and any other case-specific factors. However, in the future, agencies may need to reconsider whether the need for such agreements to deliver the efficiency (the very existence of a platform model) had become obsolete as a result of technological progress. For example, in relation to hotel booking platforms this type of justification for contracts that require price parity across different platforms (rather than across hotels) has been rejected in many jurisdictions.

Lastly, there are some complaints about the pricing models deployed by ride-sourcing companies. These include concerns about excessive pricing and price discrimination. However dynamic pricing that reflects real-time demand and supply levels has delivered significant benefits to consumers. Moreover passengers may choose to use platforms that offer less price volatility, effectively insuring themselves against larger price variation, perhaps at the expense of better availability. More interesting is the possibility of personalized pricing, the impact of which is ambiguous. In particular it depends not only on whether the personalised price is a good approximation of a consumers' willingness to pay (which should not be taken for granted), but also on whether personalised prices increase output and the nature of the dynamic incentives that they create (for example for investment in innovation or for rent-seeking investments in better price discrimination schemes). Therefore, given the ambiguity in the effect, if there is a concern that personalised price discrimination is harming consumers, agencies may do well to consider conducting market studies with strong information gathering powers to understand whether the market is working well, and if not, why that is.